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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/068,406	02/06/2002	Scott A. Merkle	P05525US0	9604

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EXAMINER

STINSON, FRANKIE L

ART UNIT	PAPER NUMBER
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1746

DATE MAILED: 02/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/068,406

Applicant(s)

MERKLE ET AL.

Examiner

FRANKIE L. STINSON

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-8,10,11,18,19,21,22 and 25-28 is/are rejected.
- 7) ☒ Claim(s) 9,12-17,20,23,24,29 and 30 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 1.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3, 5-8, 10, 11, 18, 19, 21, 22 and 25-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over France (2,202,182, hereinafter France'182) in view of either Borroni et al. or Eichman et al.

Re claims 1, 21 and 28, France'182 is cited disclosing a detergent dispenser for a washing machine comprising a first cup (7) to dispense a powder and a second cup (6) to dispense a liquid with the second cup being removably mounted IN THE FIRST CUP that differs from the claims only in the recitation of the base. Borroni and Eichman are cited disclosing a dispenser for a liquid and a powder where there is provided a base. It therefore would have been obvious to one having ordinary skill in the art to modify the device of France'182, to include a base as taught by either Borroni or Eichman, for the purpose of positively directing the detergent into the wash tub and for ensuring a complete removal of materials from the cups or for ease of maintenance. Re claim 2, France'182 discloses the second cup being installed by the user. Re claim 3, France'182, as proposedly modified by either Borroni or Eichman, discloses the cups dispensing into the base and draining into the tub. Re claim 5, France'182 discloses the water flushing the detergent from the first and second cups. Re claims 6 and 25, although not specifically shown, the cup first cup must have an outlet to dispense the detergent into the tub. Re claim 7, France'182 discloses the siphon (19). Re claims 8

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and 22, France'182 discloses the second cup nested in the first cup. Re claim 10, as proposedly modified, France'182 discloses the base having a bottom with the floor of the first cup spaced above the bottom of the base. Re claim 11, Eichman disclose the base having shoulders (136) for supporting the first cup. Re claims 18 and 27, Eichman discloses the removable first cup. Re claim 19, France'182 discloses the lip (16, 17) on the second cup. Re claim 26, France'182 discloses the outlet and siphon.

3. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over the applied prior art as applied to claim 1 above, and further in view of Kiefer et al.

Claim 4 defines over the applied prior art only in the recitation of the grate. Kiefer discloses a dispenser having grate (50). It therefore would have been obvious to one having ordinary skill in the art to modify the dispenser of France'182, to include a grate as taught by Kiefer, for the purpose of preventing clumps of detergent material from entering the tub.

4. Claims 9, 12-17, 20, 23, 24, 29 and 30 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. Applicant's arguments filed December 29, 2004 have been fully considered but they are not persuasive. In regard to the remarks on the France'182 reference, namely that the detergent is inherently directed into the wash tub and therefore would not need to be modified to include a base, please note that the base (12) in Borroni allows provide for the removal of the dispenser for ease of maintenance and the base (59) in

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Eichman provides means for the complete removal detergent products from the dispenser.

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **FRANKIE L. STINSON** whose telephone number is (571) 272-1308. The examiner can normally be reached M-F from 5:30 a.m. to 2:00 p.m. and some Saturdays from 5:30 a.m. to 11:30 a.m.

The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application should be directed to **TECHNOLOGY CENTER 1700** (571) 272-1700.

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Any inquiry for missing parts of this Office Action (copies of references, pages, forms etc.), contact the TEAM LEADER Ms. Nicol Scott (571) 272-1045.

fls



FRANKIE L. STINSON
Primary Examiner
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